

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ERNEST A. SCHAEF, SR.,

Petitioner,

v.

BELINDA STEWARD,

Respondent.

Case No. C06-5544FDB

ORDER TO
SHOW CAUSE WHY
PETITION SHOULD NOT
BE DISMISSED AS A SECOND
OR SUCCESSIVE PETITION

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2241. This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrates' Rules MJR 3 and MJR 4. After reviewing the record, the court finds and orders as follows:

1. Significantly, petitioner has previously filed several complaints and petitions challenging his conviction(s) and confinement.

2. The instant petition raises grounds challenging the legality of his confinement in a Washington State prison. A previous petition, filed on or about July 11, 2005, raised similar challenges. Accordingly, the instant petition appears to be a second or successive petition within the meaning of the Antiterrorism and Effective Death Penalty Act of 1996, which was signed into law on April 24, 1996. Section 2244(b)(3)(A) of the Act provides:

Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing

1 the district court to consider the application.

2 3. Accordingly, petitioner shall show cause by **October 26, 2006**, why the instant petition should
3 not be treated as a second or successive petition. Otherwise, the petition will be dismissed unless
4 petitioner obtains an order from the Ninth Circuit authorizing the filing of the second or successive
5 petition.

6 4. The Court Clerk is directed to send a copy of this Order to petitioner.

7 DATED this 28th day of September, 2006.

8 /s/ J. Kelley Arnold

9 J. Kelley Arnold

10 United States Magistrate Judge
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